

1 IN THE UNITED STATES DISTRICT
2 FOR THE WESTERN DISTRICT OF TENNESSEE
3 WESTERN DIVISION

4 UNITED STATES OF AMERICA,

5 Plaintiff,

6 vs.

NO. 23-20123-TLP

7 EFE EGBOWAWA,

8 Defendant.

9 SENTENCING

10 BEFORE THE

11 HONORABLE THOMAS L. PARKER

12
13 April 17, 2024

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18
19 CATHERINE J. PHILLIPS, FAPR, RMR, CMRS
20 OFFICIAL REPORTER
21 FOURTH FLOOR FEDERAL BUILDING
22 MEMPHIS, TENNESSEE 38103

A P P E A R A N C E S

Appearing on behalf of the Plaintiff:

SCOTT SMITH, ESQUIRE
U.S. Attorney's Office
167 N. Main Street, Suite 800
Memphis, TN 38103
901.554.4231
scott.smith@usdoj.gov

Appearing on behalf of the Defendant:

PATRICK STEGALL, ESQUIRE
Stegall Law Firm
22 N. Front Street, Suite 780
Memphis, TN 38103
901.205.9894
pstegall@stegall-law.com

Wednesday

April 17, 2024

The SENTENCING in this case began on this date, Wednesday, April 17, 2024, at 9:32 a.m., when and where evidence was introduced and proceedings were had as follows:

CASE MANAGER: All rise. The United States District Court for the Western District of Tennessee is now in session pursuant to adjournment. The Honorable Thomas L. Parker presiding. God save the United States and this Honorable Court. You may be seated.

THE COURT: This is in the matter of the United States versus Efe Egbowawa. Mr. Egbowawa is present in the Court with counsel, Mr. Stegall. Mr. Smith is here for the United States.

The Court has reviewed the presentence investigation report, the addendum, the second addendum, and third addendum, along with the sentencing recommendation from the Probation Office. The Court has also received the position paper of the defendant, the position paper of the Government, and a letter of support from the Egbowawa Family writing on behalf of the defendant.

Mr. Stegall, am I overlooking any documents from

1 the defense?

2 MR. STEGALL: No, Your Honor.

3 THE COURT: Mr. Smith, am I overlooking any
4 documents from the Government?

5 MR. SMITH: Good morning, Your Honor. No, you're
6 not overlooking anything.

7 THE COURT: Mr. Stegall, did you and Mr. Egbowawa
8 have an opportunity to go over the presentence investigation
9 report before today's hearing?

10 MR. STEGALL: We have.

11 THE COURT: All right. Mr. Egbowawa, did you
12 have a chance to read the presentence investigation report
13 and discuss it with your lawyer before today?

14 THE DEFENDANT: Yes.

15 THE COURT: As I reviewed the materials, I did
16 not see any objections to the facts or the legal conclusions
17 in the PSR.

18 Mr. Stegall, any objections that I overlooked?

19 MR. STEGALL: No.

20 THE COURT: Mr. Smith, any objections to the
21 facts or the legal conclusions in the PSR?

22 MR. SMITH: No, Your Honor.

23 THE COURT: Well, the Court will then adopt the
24 presentence investigation report without objection, and finds
25 that the facts are as stated in the PSR.

1 The defendant begins at an offense level of 31.

2 Mr. Smith, are you asking for the third level
3 reduction for acceptance of responsibility?

4 MR. SMITH: The Government does so move for the
5 third point.

6 THE COURT: The Court will grant that request.
7 And the offense level then will go down to a 28. Criminal
8 history category of one. This results in a guideline range
9 of 78 to 97 months; supervised release range of one to three
10 years; a fine range of 25,000 to \$250,000; a special
11 assessment in the amount of \$100.

12 Now, there will certainly be an order for
13 restitution in this case, so I'm not sure exactly what the
14 amount's going to be, but it will certainly be in the
15 hundreds of thousands of dollars.

16 Otherwise, Mr. Stegall, any objection to the
17 calculation so far?

18 MR. STEGALL: No, Your Honor.

19 THE COURT: Mr. Smith, any objection to the
20 Court's calculation of the guidelines so far?

21 MR. SMITH: No, Your Honor.

22 THE COURT: The next thing I want to talk about
23 is departures. Within the United States Sentencing
24 Guidelines there are specific grounds for departure within
25 the frame work of the guidelines.

1 Mr. Stegall, are you seeking a departure today?
2 Or a variance -- I mean, most people are talking about
3 variances these days. I just want to make sure the record's
4 clear that we considered departures.

5 MR. STEGALL: No, not outside the 3553 factors
6 that the Court will consider.

7 THE COURT: Right. And we'll talk about those in
8 just a minute. Okay.

9 MR. STEGALL: So no.

10 THE COURT: Mr. Smith, any request for a
11 departure today?

12 MR. SMITH: No, Your Honor.

13 THE COURT: Well, the Court agrees with counsel
14 that under the facts of this case a departure within the
15 frame work of the guidelines would be inappropriate.

16 So now we'll turn to the 3553 factors. After
17 calculating the guidelines and considering departures, the
18 Court will hear argument as it considers the relevant factors
19 set out by Congress at 18 U.S.C., Section 3553(a), to ensure
20 that it imposes a sentence that is sufficient but not greater
21 than necessary to comply with the purposes of sentencing.

22 These purposes include the need for the sentence
23 to reflect the seriousness of the crime, to promote respect
24 for the law, and to provide just punishment for the offense.
25 The sentence should also deter criminal conduct, protect the

1 public from future crime by the defendant, and promote
2 rehabilitation.

3 In addition to the guidelines and policy
4 statements, the Court must consider the nature and
5 circumstances of the offense, the history and characteristics
6 of the defendant, the need to avoid unwarranted sentence
7 disparities among similarly-situated defendants, and the
8 types of sentences available.

9 Now, Mr. Stegall, I will turn it over to you to
10 talk about the 3553 factors. But I'll also just ask this
11 question, because as I looked at the plea agreement, the
12 Government was recommending that the Court sentence the
13 defendant to no more than 60 months. And with a guideline
14 range of 78 to 97 months, just wondering why that is. So
15 just know that that's on my mind. Go ahead.

16 MR. STEGALL: Yes, yes, that was the plea
17 agreement. He pled guilty to the one count, the money
18 laundering count, and we were seeking under that a cap of
19 60 months of sentencing.

20 Ideally, hopefully, if the Court starts there and
21 possibly works its way down, the Court can consider the 3553
22 factors. You know them well. I don't really need to
23 regurgitate them.

24 But things about Mr. Egbowawa, I mean, he has --
25 first of all, I mean, he has a good bit of time under his

1 belt already. He was taken into custody in Georgia in July
2 of last year, transferred to the Western District here, where
3 he's been. He's been in the custody --

4 THE COURT: July of 2023?

5 MR. STEGALL: Yes. Yes. So he's been in
6 custody, he's been at the Shelby County Corrections Center
7 this whole time. Of course, he's dressed in his jail uniform
8 today. So he's got, I think, about nine months --

9 THE DEFENDANT: Ten.

10 MR. STEGALL: Okay. He says ten. I'm not sure
11 if he actually bonded out for a time when he was in custody
12 in Georgia. But he -- by the time he got here to the Western
13 District sometime the end of July. So it's looking like nine
14 to ten months custody he's already got. And we're asking for
15 a time-served sentence here. That's a fair amount of time
16 that he has served, and had time to think about his actions.

17 That is a sentence that based on what he did
18 here, the Court can consider that sufficient enough
19 considering the crime. Now, I know it was a substantial
20 happening here, a lot was going on in this case. Other
21 people were involved, and it looks like there are people
22 that, you know, have not even been prosecuted, may not even
23 be known. People not even in the United States who were
24 involved. This was not a local conspiracy just between a
25 couple of people. And Mr. Egbowawa was part of that and he

1 has accepted responsibility for that.

2 Obviously there's lot of money at hand here. And
3 a lot of people from all over the country who have claimed to
4 be victimized by this conspiracy that Mr. Egbowawa was a part
5 of. And he did -- you know, he did act, it's in the
6 presentence report, the setting up of bank accounts and a
7 post office box, and acting as somewhat of a runner or a
8 mule.

9 You know, what his involvement was, you know, did
10 he have actual contact with the victims? I don't know if
11 that's -- you know, that probably would have been a matter to
12 be determined at trial, and how much money he actually had in
13 his hands. I think the Court can consider it was
14 considerably less than -- it could potentially be millions of
15 dollars.

16 But what is Mr. Egbowawa's actual responsibility
17 here? I know there's the relevant conduct of the whole
18 conspiracy, but I would like the Court to consider, you know,
19 he was involved in this. But, you know, he was one of many.
20 And, you know, his role was not -- I know there's an
21 enhancement for him being a leader of this. It looks like
22 there were several people, at least several people who had
23 that role.

24 Mr. Egbowawa was in Georgia the whole time, and,
25 you know, he did take some actions that I just mentioned,

1 criminal actions to further this conspiracy.

2 But I think the Court can consider what's in the
3 presentence report that -- you know, every one of those
4 dollars doesn't go through him, and he's responsible for his
5 part.

6 Considering that and considering the time that he
7 has served, the time that he's had to sit and think on what
8 he's done, and -- of course, he's got no prior criminal
9 record. If you look at his background, I mean, he's
10 educated, internationally educated. Comes to the United
11 States, runs some small businesses. He has an
12 entrepreneurial spirit.

13 Finally, he has family support. The Court
14 mentioned the letter that was written on his behalf. I'm
15 glad that he has those individuals in his life behind him
16 now. Today, in court, his brother, Mr. Austin, is here.
17 He's sitting in the courtroom. He has come from Texas. He
18 lives in Texas. He has stayed in touch with me throughout
19 this. And he and his brother are very close, so he's here
20 today in support of Mr. Efe Egbowawa.

21 THE COURT: As I was reading the letter, I know
22 that Mr. Egbowawa has an eight-year-old son. And then I read
23 in the PSR that the son is in Lagos, Nigeria. Is that where
24 the boy is living?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Okay.

2 MR. STEGALL: So the Court's got a lot to
3 consider. And it's a complex conspiracy here. But look at
4 Mr. Egbowawa's role, you know, his little part of that
5 universe and his acceptance of responsibility.

6 He's been here in Shelby County at the
7 corrections center waiting, knowing his day is coming. It's
8 here today. He's served some time. And I know he got -- he
9 did get -- you know, just within the four corners of the plea
10 agreement, for the Government to recommend the cap of no more
11 than 60 months is considerable, considering what he was
12 facing just on this one count, not to say of the five
13 remaining counts in the indictment.

14 But we're asking for a time-served sentence, or
15 something appropriate, based on all of his factors, the
16 nature and characteristics of his background, what he's done
17 in his life, balanced against what he did in this case. A
18 time-served sentence, or something, you know, bumped up from
19 that a little bit, below the 60 months that the plea
20 agreement's calling for and the 60-month cap.

21 THE COURT: Are you centering that based on the
22 fact that he has no criminal history and that he's well
23 educated, and that his role in the conspiracy was fairly --
24 was limited? Is that --

25 MR. STEGALL: Yes. And I want to be careful to

1 just say limited. I know there was an enhancement for him
2 being a leader and organizer.

3 THE COURT: Well, because otherwise, I mean,
4 Mr. Stegall, I mean, the guidelines put him at seven to eight
5 years, and you're talking about time served with nine months.

6 MR. STEGALL: It's considerable.

7 THE COURT: That's a big ask.

8 MR. STEGALL: Yes. Yes. This defendant has some
9 things going for him: His education, his family, and he's
10 had time. It's been a shock to him. I mean, he came to the
11 United States to make a life here. And, like I said, he's
12 got the entrepreneurial spirit, started some businesses.
13 Gets caught up in this, makes some bad decisions, and now
14 he's answering for it.

15 THE COURT: What businesses did he start?

16 MR. STEGALL: It was cars. He was selling cars
17 and --

18 THE DEFENDANT: Phones.

19 MR. STEGALL: -- cars and phones and sending the
20 money back to Nigeria.

21 THE DEFENDANT: I'm not sending money to Nigeria,
22 the cars and the phones.

23 THE COURT: The cars and the phones were going
24 back. Okay.

25 All right. Thank you, Mr. Stegall.

1 MR. STEGALL: Yes.

2 THE COURT: Mr. Smith, how do you see it?

3 MR. SMITH: Thank you, Your Honor. Judge, we
4 come before the Court in sort of an unusual posture, in that
5 we will emphasize some things that cut against Mr. Egbowawa,
6 but we're also going to point out some reasons we think a
7 60-month sentence is the adequate sentence. That's a below
8 guideline sentence. So we're asking for 60 months, that's
9 the top of the cap under the plea agreement.

10 First of all, anything less than that is
11 inappropriate. A time-served sentence is certainly
12 inappropriate in this case. A lot of victims, a lot of money
13 lost, many of whom are elderly, and many of whom suffered
14 from -- not always, but suffered from romance. Their
15 introduction to this scheme was a romance scam.

16 And in romance scams, not only do you lose your
17 money, but your heart gets ripped out. And for a lot of
18 victims, it's a very real relationship, this online
19 relationship, a very loving relationship. So this is a
20 heinous crime. What he has done, Mr. Egbowawa's contribution
21 is reprehensible.

22 What I'll say, though, there are several things I
23 think that cut in his favor, for which a 60-month sentence is
24 appropriate. For one, he is a first-time offender, or at
25 least he has no criminal history. He came to us and agreed

1 to plead guilty, accepted responsibility, within a deadline
2 that the Government imposed to accept a plea agreement. So
3 he abided by that and accepted responsibility.

4 And that puts pressure on all the other members
5 of the conspiracy that were charged. So that's a -- for the
6 Government, that is a major win, and that helps a lot in
7 terms of conservation of resources, not only of the Court's
8 resources, the Government's resources, but also the dozens of
9 victims that we're talking to and witnesses that we're
10 talking to from across the country, for whom it is arduous in
11 some cases, to travel cross country to do trial prep, to stay
12 somewhere. And so a lot of that goes away when you have
13 someone like Mr. Egbowawa coming and accepting
14 responsibility. And that's definitely something to the good.

15 Another thing in these kinds of schemes, the
16 victims, I think in many cases, never dream that they're
17 going to get a call from an FBI agent, talk to a prosecutor,
18 have any kind of process in a court of law that's going to
19 result in some justice. They just think that that's just a
20 remote possibility, perhaps never going to happen. And that
21 is happening in this case. And he's part of the reason --
22 he's first one before Your Honor to be sentenced. He's part
23 of the reason -- his willingness to accept responsibility and
24 come before the Court is part of the reason we can bring
25 justice to many of those victims today.

1 And then there's closure when you have a plea
2 agreement with appeal waivers. These are standard appeal
3 waivers, but there is an important level of closure for both
4 the Government and for the victims when you have these appeal
5 waivers.

6 So for all those reasons, looking at the
7 guidelines, looking at the things that cut against him, cut
8 in favor, we are requesting that the Court sentence him to
9 60 months in confinement.

10 One last factor, Judge, I don't know if this is
11 on your horizon. He was here as a lawful permanent resident.
12 When this offense was committed, he was still -- that status
13 was still a provisional status. It was in limbo, in other
14 words, and that has been revoked. He will be deported. At
15 the termination of his sentence here, he'll be deported to
16 Nigeria. So that's one other thing, I think, that makes this
17 60-month sentence that we're asking for acceptable.

18 THE COURT: Mr. Smith, were any of the victims
19 going to be -- I've read what they've written. But any
20 victims here to testify?

21 MR. SMITH: None are here. We spoke with many,
22 and they preferred to send something in. Now, the one victim
23 that we did want to be here, that was our local victim, she
24 passed away some weeks ago. And we've been in touch, of
25 course, with her son. Maybe when we speak about restitution

1 a little later, we'll talk a little more about her. But none
2 to be here today.

3 THE COURT: Okay. Mr. Egbowawa, you are given an
4 opportunity to address the Court. You can tell me anything
5 you think I need to know before I pronounce the sentence. I
6 would -- if you want to be heard, please stand and I'll hear
7 from you.

8 THE DEFENDANT: Your Honor, I really want to hear
9 from you, because I really don't understand this whole
10 process, how it works. I have read all the statements of
11 these victims. In all the statements of these victims, none
12 of them said whoever they communicate with steal money for
13 him. But all of them are saying, whoever they communicate
14 with told them he had a problem with his business, that he
15 needs his field team to borrow him money, which --

16 THE COURT: All right, hang on. Mr. Egbowawa, I
17 want to give you a chance to be heard, and I want to
18 understand what you're saying.

19 THE DEFENDANT: Okay, sir.

20 THE COURT: It might be better if he were
21 standing directly in front at this podium. No, the one
22 directly in front of the bench here. Come this way,
23 Mr. Egbowawa.

24 Mr. Stegall, if you want to join him at the
25 podium here. There you go. Right here, sir. And the gray

1 bar right that's right there is a microphone. So if you'll
2 just go ahead and start talking. Right here. There you go.

3 THE DEFENDANT: Okay, sir. I will repeat myself
4 again. I said, I'm not understanding any of this whole
5 situation, and I really need to hear from you. I've read all
6 the statements of the victims. Not one of the victims said
7 whoever they communicate with steal money from them. But
8 each and every one of these victims said, whoever they
9 communicate with told them he have problem with his business
10 and he needs this field team to borrow him money.

11 Your Honor, please, I would like to be corrected
12 if I'm wrong. I believe there's big difference between when
13 you steal money and when you borrow money. To my own
14 understanding, and please correct me if I'm wrong, if you
15 steal money, it is a crime. When you borrow money, to my own
16 understanding, it is a debt.

17 Like I was telling my lawyers, I'm not a man that
18 can run away from my responsibility. I did not borrow this
19 money from these victims, which the FBI agent knows as well.
20 If I did borrow this money, I'm not going to run away from my
21 responsibility, because it is a debt.

22 I would simply say, Your Honor --

23 THE COURT: So what did you do with the money?

24 THE DEFENDANT: I normally buy cars --

25 THE COURT: No, the money that you went to the

1 post office box and picked up, what did you do with it?

2 THE DEFENDANT: Your Honor, I was instructed -- I
3 normally buy items. And I was instructed to pay for the
4 vehicle. Which I bought a vehicle and I paid for a vehicle.

5 THE COURT: A what? A vehicle?

6 THE DEFENDANT: Yes, a motor.

7 So if I did borrow this money from these victims,
8 I would definitely say, Your Honor, yes, I did borrow this
9 money. Yes, I will not be able to pay. I did something bad
10 because I invested money in the wrong business, that's why
11 I'm not able to pay.

12 But I would say, Your Honor, to them in order to
13 make my restitution, I want to start paying this money. I
14 can write a check of a thousand dollars. As long as I'm in
15 this country working, every month I will be willing to pay.

16 But, Your Honor --

17 THE COURT: So when the money was sent to your
18 post office box, did the victims know that you were going to
19 go buy a car with it?

20 THE DEFENDANT: I didn't --

21 THE COURT: I don't think so, did they? I don't
22 think so, Mr. Egbowawa. In fact, I think you know they
23 didn't.

24 THE DEFENDANT: Your Honor, I never
25 communicate --

1 THE COURT: That's called false pretenses.

2 THE DEFENDANT: Your Honor, I never communicate
3 with these victims. Whoever borrowed this money --

4 THE COURT: Okay.

5 THE DEFENDANT: -- from these victims --

6 THE COURT: Okay.

7 THE DEFENDANT: -- I don't even know if he is
8 black or if he is white. I never communicate with this
9 person, which the FBI knows that whoever is the handler,
10 which -- whoever is the handler, which communicate with these
11 victims, I have no relationship with this person. I've never
12 communicate with this person --

13 THE COURT: You have plausible deniability is
14 what you're saying; is that right? Is that what I'm hearing?

15 THE DEFENDANT: It is what it is, Your Honor. I
16 never communicate with this person to know his intention that
17 he borrowed money -- that is borrowing money for someone,
18 which I did not know about. I didn't know about it. I was
19 told they want to purchase vehicles, and that is what I'm
20 doing for them.

21 MR. STEGALL: May I talk to Mr. Egbowawa for a
22 minute?

23 THE COURT: Yes, sir.

24 (Off-the-record discussion between defense
25 counsel and defendant.)

1 THE DEFENDANT: Your Honor, what I'm trying to
2 bring up again is the total lost amount of money. When you
3 look at the indictment, the total amount of money is now up
4 to 300,000. This idea is of the prosecutor. They just
5 assume that all these things -- these kind of things are
6 happening. They print out all my bank statements that I
7 opened in this country since 2017 to date. And they are
8 calculating the whole money as a loss. And this money is my
9 business money. Why you calculate that amount? It increase
10 to 1.5 million.

11 And they are trying to put me like a gang member
12 or a leader or something. How am I a leader of something
13 what happened with two others? How am I leader? They're
14 trying to say -- you are charging me with people that don't
15 know about the source of the money. Why are you charging me
16 with people that don't know about the source if no one knows
17 that.

18 Someone is out there communicating with someone
19 on the internet and telling the person, I need you to borrow
20 money. Which is practically impossible.

21 THE COURT: Mr. Egbowawa, we went through a
22 hearing in which you entered a guilty plea to the charge in
23 this case. And we talked all about the plea agreement, we
24 talked all about the fact that you knew what the charges
25 were, you knew what the factual basis was, and you agreed to

1 plead guilty.

2 Today is sounds like you're rethinking -- I don't
3 know, is this revisionist history? What are we doing here?

4 THE DEFENDANT: Your Honor --

5 THE COURT: Have you decided that, you know,
6 maybe you saw the numbers and that scared you? I don't know
7 what's going on here. But you sat right in that chair, right
8 over there, and looked me in the eye and said, I'm guilty.

9 THE DEFENDANT: Yes, I did say so, because of
10 what my lawyer said, it's best you just plead guilty, and
11 there's a possibility we can fight for time served. But I'm
12 seeing that's not -- I don't see any reason why because of a
13 debt, you are trying to destroy my life.

14 Whoever borrowed this money, deposited this
15 money, it is a debt. And if they are going to put it on me,
16 fine, they should put it on. It's going to be a debt that I
17 will pay for the rest of my life, but not destroying my life
18 by putting me in jail, to make me suffer and my family to
19 suffer.

20 THE COURT: Mr. Egbowawa, did you read the
21 presentence investigation report?

22 THE DEFENDANT: I did read the presentence
23 report.

24 THE COURT: Did you read about how those victims
25 gave hundreds of thousands of dollars to this group, because

1 they thought that someone needed help who was working at an
2 oil rig somewhere or needed help with their business? They
3 didn't say, oh, you've got a buddy in Georgia who's going to
4 go buy a car.

5 THE DEFENDANT: No.

6 THE COURT: No, they didn't know that,
7 Mr. Egbowawa, did they?

8 THE DEFENDANT: They did not know that. They
9 didn't tell me that as well. This is a misunderstanding --

10 THE COURT: So everybody's just out here kind of
11 in a vacuum, and just, you know, I'm going to fake a name.
12 I'm going to put a bogus name on a post office box, because
13 dude out here in who knows where said, hey, I'm going to
14 borrow some money from people, but don't put your real name
15 on it, because it's all legit.

16 Is that what you're telling me?

17 THE DEFENDANT: Your Honor, that I have a fake
18 passport or ID does not mean --

19 THE COURT: All right. That -- you know what,
20 Mr. Egbowawa, tell me what you're going tell me and we'll
21 move on. Let's just go.

22 THE DEFENDANT: What I'm trying to tell you is
23 this, that the total amount of money is not correct.

24 THE COURT: Okay.

25 THE DEFENDANT: Two, I'm not [indiscernible] nice

1 people and put some money in their account. I am not part of
2 those things. Whatever I did, I did on my own. I did not
3 deal with anybody. And not that there's any evidence to tie
4 me to that.

5 THE COURT: So money just landed in this post
6 office box by magic?

7 THE DEFENDANT: Let me explain --

8 THE COURT: Are you telling me that you didn't
9 have anything to do --

10 THE DEFENDANT: Okay. Let me explain something
11 to you. You're not understanding, Your Honor.

12 THE COURT: No, you're right, I don't understand.

13 THE DEFENDANT: Yeah, let me explain to you.
14 Whoever is the handler, which is the person talking to these
15 victims --

16 THE COURT: All right. Tell me what a handler
17 is. A handler is somebody --

18 THE DEFENDANT: According to the FBI, a handler
19 is the person that's --

20 THE COURT: Who's actually in communication with
21 the victim.

22 THE DEFENDANT: -- communicating with the victim.
23 He told the victim that I am your agent.

24 THE COURT: He told the victim what?

25 THE DEFENDANT: That I'm their agent to receive

1 money. But they told me they wanted to purchase an item,
2 which is vehicles and these other phones I'm purchasing.
3 That's where the big problem coming from.

4 THE COURT: Okay. But you didn't think, well,
5 wait a minute, why don't I just get a post office box in my
6 name then? I'm Efe Egbowawa. I'm here legally --

7 THE DEFENDANT: Your Honor, when I came --

8 THE COURT: -- I've got no problem. I'm a
9 businessman. I can just set up the post office box in my
10 name and it's no big deal.

11 And the reason you didn't do that, Mr. Egbowawa,
12 is you knew those guys were scamming, and you knew that money
13 was fraudulent.

14 THE DEFENDANT: Your Honor, the reason why --

15 THE COURT: That's why you pled guilty in this
16 case.

17 THE DEFENDANT: The reason why I have the fake ID
18 was because when I came to this country I was made to
19 understand you cannot do business or work when you're on a
20 visiting visa. That is the main reason I got the ID.

21 THE COURT: I think we should probably just take
22 a short break, Mr. Stegall, and you can chat with
23 Mr. Egbowawa and we'll see where we are. Okay?

24 MR. STEGALL: Okay.

25 THE COURT: So I'll come back in about ten or

1 15 minutes.

2 CASE MANAGER: All rise. This Honorable Court
3 now stands in recess.

4 (Recess was had at 10:07 a.m. and resumed at 10:22 a.m.)

5 THE COURT: Mr. Stegall, did you have a chance to
6 talk to Mr. Egbowawa?

7 MR. STEGALL: I did.

8 THE COURT: Are we prepared to proceed?

9 MR. STEGALL: Yes. Do you want -- well --

10 THE DEFENDANT: I don't want to say anything that
11 will offend anybody, so I have nothing else to say.

12 MR. STEGALL: He advises he has nothing else to
13 say as far as his elocution.

14 THE COURT: All right. Mr. Egbowawa, you know,
15 the Court gave you an opportunity to say what you wanted to
16 say. But at this point you've decided to stop; is that
17 right?

18 THE DEFENDANT: I don't want to get anyone
19 offended to explaining my own opinions. So I just have to
20 deal with my fate in the hands of God and let His will be
21 done.

22 THE COURT: Well, I'm not cutting you off. I
23 just want to make sure the record's clear that I'm not
24 stopping you from speaking. You've chosen to stop speaking;
25 is that right?

1 THE DEFENDANT: Okay. I just want to make sure
2 and put on points, that I don't see any reasoning why they
3 are inflating the amount to 1.5 million. Because basically
4 what they just did, you printed my bank statements from 2017
5 to date and you --

6 THE COURT: Took every dime that went
7 through there --

8 THE DEFENDANT: Yes, every --

9 THE COURT: -- and added it up --

10 THE DEFENDANT: And they are calculating that as
11 the loss. Which, to me, I don't think that is fair for me.

12 THE COURT: Okay.

13 THE DEFENDANT: Two, I don't see any reason why
14 they are trying to put like I'm a leader. A leader of what?

15 THE COURT: Okay.

16 THE DEFENDANT: That part, I don't understand.

17 THE COURT: Okay. Anything else?

18 THE DEFENDANT: Nothing else, no.

19 THE COURT: All right.

20 THE DEFENDANT: I want to say, I'm really sorry,
21 deeply sorry from my heart for any loss of these victims that
22 suffered. I know in my heart I did not willingly participate
23 in this. I've been used in this whole process. I did not
24 know or willingly participate in this. I'm deeply sorry for
25 any loss anyone suffered as a result of this whole thing. I

1 am deeply sorry.

2 THE COURT: Okay. All right.

3 THE DEFENDANT: Thank you, sir.

4 THE COURT: Why don't -- before I decide the
5 sentence, why don't we talk about restitution.

6 Mr. Smith, how do you see it?

7 MR. SMITH: Judge, of course I disagree with
8 Mr. Egbowawa's characterization of how we've calculated
9 restitution. Or how restitution would have been --

10 THE COURT: It didn't make sense to me, based on
11 what I've read.

12 MR. SMITH: And that's not how we're calculating
13 things. But what I would say is that we are still trying to
14 determine the right number. I think as recently as yesterday
15 we received a response from one of the victims. I confirmed
16 that with Ms. Roberts a little earlier today.

17 And, unfortunately, we just don't have a good
18 grasp, at this time, on what that number should be. What I'm
19 going to ask for is a period of time. I think under rules we
20 have up to 90 days, to leave restitution open, and do a
21 little more work on that.

22 I mentioned Hildegard Waldorf, one of the victims
23 earlier. She recently deceased, and we are working through
24 her son on how to best address the claim for restitution.
25 Her amount is going to be in the neighborhood of 400,000, so

1 it's important to get that right. And so for those various
2 reasons, I think we need to leave it open for a little while.

3 THE COURT: Well, of course the rules allow us to
4 do that. As I was looking at the various addendums, the most
5 recent one I think had the number somewhere in the \$400,000
6 range.

7 And, Mr. Smith, maybe you can correct me if I'm
8 wrong, but what -- the amount of loss that is set forth in
9 the guidelines is based on the activity of the group, and the
10 multiple victims from all over the country who are
11 contributing money toward this scam, and the amount of loss
12 there may or may not be the same amount that is ordered for
13 restitution. Sometimes it is, sometimes it's not. In this
14 case, it may be a different number. Am I right about that?

15 MR. SMITH: Yes, Your Honor. And I'm going to
16 turn to make sure I'm looking at the right paragraph.

17 The number 1.6 million is mentioned in the PSR.

18 THE COURT: It's in paragraph 48, page 14. It's
19 the second bullet point under paragraph 48.

20 MR. SMITH: Yes, Your Honor. Loss amount of
21 1.6 million. That is based on the little over 400,000 that
22 we know came from Hildegard Waldorf, and that it is also
23 based on wires that went into the accounts of Mr. Egbowawa.

24 And then we are adding to that some of the
25 victims who sent cash in the mail, but not all of them. We

1 don't know how much some of them sent. Most of them we don't
2 know how much they sent, and so that's where that number
3 comes from. The conspiracy number is larger, but that's
4 where the 1.6 comes from.

5 THE COURT: Okay. Well, Mr. Stegall, do you want
6 to be heard on the question of restitution? I mean, I'm
7 inclined to leave the question open for 90 days, and we can
8 come back. If we need to have a hearing on it, we can. But,
9 otherwise, maybe the lawyers can agree to an amount. But
10 either way, we'll put it off for 90 days.

11 MR. STEGALL: That's fine.

12 THE COURT: Okay.

13 MR. STEGALL: And I don't have anything else --
14 I'll have to look at it and maybe talk with Mr. Smith and see
15 what we can agree on.

16 THE COURT: Okay. Well, so Mr. Egbowawa tried
17 pretty hard to talk me out of giving him credit for
18 acceptance of responsibility. I'm not going to take him up
19 on that.

20 MR. STEGALL: Thank you.

21 THE COURT: You know, Mr. Egbowawa's 40 years
22 old. He has a master's degree. And instead of operating a
23 legitimate business, he joined a group of people who lied for
24 a living. That's what they did. They went to vulnerable
25 people and convinced them that they were in love with them,

1 and then pulled a bait and switch and got them to contribute
2 money toward some emergency that had they would concoct and
3 come up with.

4 And for Mr. Egbowawa to try to say that all he
5 was doing was doing his normal vehicle business, in a fake
6 name, in bank accounts under fake names, is laughable. It is
7 laughable. And what is happening here is that Mr. Egbowawa
8 believes very deeply that he is a good person, and that he
9 wouldn't do anything that would justify the Court sentencing
10 him to anything more than time served.

11 He has a family. He loves his children. All of
12 that can be true, and he can still be part of a group that
13 lies for a living. Drug dealers love their children. Okay.
14 Oftentimes murderers love their families. It happens.
15 People do things that are different from, you know, loving
16 their families.

17 So this case, Mr. Smith, you used the word
18 heinous, and it is. These are -- these victims are often
19 lonely, they're vulnerable, they're elderly, and they're
20 looking for someone to care. And along comes this group and
21 they contact them, and they lead them right down the primrose
22 path. And here we have a lady, Ms. Waldorf, who contributes
23 \$400,000 thinking that she's in love. And it's horrendous.
24 It's manipulative beyond belief.

25 And Mr. Egbowawa, perhaps he was used, and that's

1 the only reason that I can think of to limit this to anything
2 below the guidelines, is the fact that maybe they put him on
3 a shelf and they said, hey, look, we're going to do our
4 thing, you do your thing, and we'll -- you know, you don't
5 need to know much more. Maybe. I'm not naive, but
6 Mr. Egbowawa sounds very naive to me, to the point of maybe
7 he was used in this process.

8 It was an elaborate scheme. There were lots of
9 people involved, and everybody in this group was lying
10 through their teeth. And to suggest that that's not stealing
11 is a joke.

12 So the case is serious, it's reprehensible, and
13 the Court needs to take that seriously. The Court also needs
14 to promote respect for the law, and the law includes telling
15 the truth. That's a very basic component to lawful activity.

16 That's not the only thing the Court looks at.
17 The Court also looks at the fact that the defendant has no
18 criminal history. He's 40 years old. He's well educated.
19 He has a lot of talent. It's terribly unfortunate that he
20 chose this path. This group is just -- it's full of, you
21 know, old-fashioned con artists. And that's what this is.

22 He has a child in Nigeria that he cares about,
23 and his son cares about him. But when I was reading the
24 letter from the family, his family, about what a big loss it
25 is that he's not able to participate in his son's life --

1 first of all, I thought, well, he probably should have
2 thought about that before he started lying about what he was
3 doing. But I also thought about the victims in this case,
4 and what they have lost as a result of all this lying.

5 I have no doubt that Mr. Egbowawa cares about his
6 son and that he is going to miss him, and that his son is
7 going to miss his dad. But I'm not the one doing that to his
8 son. Mr. Egbowawa is responsible for that.

9 We do need to figure out what the restitution's
10 going to be. The Court is going to follow the recommendation
11 that the lawyers came up with, and I'm going to cap this
12 sentence. As much as I would like to go above it, I'm going
13 to cap it at 60 months. I think Mr. Egbowawa earned every
14 minute of that in this case. And so the Court is going to --
15 I'm going to sentence him to 60 months incarceration. It's
16 going to protect the public. It's going to deter criminal
17 conduct. It does -- it is a serious offense. It is a just
18 punishment under the circumstances.

19 And so in determining what sentence to impose, I
20 have considered the presentence investigation report as well
21 as the other documents in this case, and the positions taken
22 by the parties.

23 Mr. Smith, were there other counts that are going
24 to be dismissed today?

25 MR. SMITH: Yes, Your Honor. The remaining

1 counts of the indictment as to Mr. Egbowawa, I move to
2 dismiss those at this time.

3 THE COURT: I'm not -- do you know which ones
4 they are? Let me look real quick.

5 CASE MANAGER: Judge, I show one through five.

6 THE COURT: One through five?

7 CASE MANAGER: Yes, sir.

8 MR. SMITH: Yes, Your Honor.

9 THE COURT: Okay. The Court finds that the
10 dismissal of Counts 1 through 5 will not undermine the
11 statutory purposes of sentencing or the sentencing guidelines
12 in this case. The remaining charges adequately reflect the
13 seriousness of the offense behavior. And I accept the terms
14 of the plea agreement in that regard.

15 Mr. Egbowawa, based on the 3553 factors that I've
16 been talking about, and the lawyers have been talking about,
17 as well as the advisory sentencing guidelines, I am going to
18 sentence you to a period of 60 months imprisonment, which is
19 below the guideline range. And the reason I'm going below
20 the guideline range is because you're 40-years old without a
21 criminal history, you do have other talents, and the Court is
22 concerned about restitution. And I want to make sure that
23 you get out of prison in time to contribute toward the
24 restitution for these victims. And if it lasts the rest of
25 your life, so be it. So we'll come back in 90 days for

1 restitution, to determine the amount of restitution.

2 The Court is also going to order -- even though I
3 understand there is going to be a deportation proceeding,
4 which this Court has nothing do with that, just to be clear.
5 I hope Mr. Egbowawa understands that. This Court has nothing
6 to do with immigration questions.

7 MR. STEGALL: We've discussed that a lot, him and
8 me.

9 THE COURT: But in terms of supervised release,
10 recognizing that he's going to be removed, Madam Probation
11 Officer, I think I should still order supervised release;
12 right?

13 PROBATION OFFICER: Yes, Your Honor. And that's
14 just in case something happens and he does get out, he knows
15 to come and report.

16 THE COURT: Okay. So the Court is going to order
17 three years of supervised release, with these conditions:
18 That the defendant cooperate in the collection of DNA; that
19 he participate in third-party risk notification; that he
20 provide the probation office with access to all of his
21 financial information. The defendant is also ordered -- the
22 order will be that he not open any lines of credit without
23 officer approval ahead of time. The defendant is also
24 ordered to undergo mental health counseling as directed by
25 the probation office.

1 The other conditions also apply, and those are
2 that the defendant will not commit another federal, state, or
3 local crime; he is not to possess any illegal controlled
4 substances; and he's not to possess any firearms.

5 Now, in terms of restitution, the Court is
6 leaving that question open for 90 days.

7 Any objections, Mr. Stegall, to the sentence as
8 outlined?

9 MR. STEGALL: No objections.

10 THE COURT: Mr. Smith, any objections?

11 MR. SMITH: No objections. Thank you.

12 THE COURT: Is there a location, Mr. Stegall,
13 that you would prefer Mr. Egbowawa, where he should serve the
14 sentence?

15 MR. STEGALL: His brother, who I mentioned is
16 here, lives in the Dallas, Texas, area. I believe
17 Mr. Egbowawa has other family. And so if the Court could
18 make a recommendation around the Dallas area, we'd appreciate
19 that.

20 THE COURT: All right. The Court will make the
21 recommendation that the defendant be housed as close to
22 Dallas, Texas, as possible.

23 Now, Mr. Egbowawa, there apparently is a detainer
24 that is in place from the immigration authorities, so that
25 when you're finished with your sentence, you would be

1 transferred to the immigration authorities.

2 But if that doesn't happen for some reason, upon
3 release from imprisonment, you are ordered to serve
4 supervised release for a term of three years. And within
5 72 hours of release from the custody of the Bureau of
6 Prisons, you are to report in person to the probation office
7 in the district in which you are released.

8 It is further ordered that the defendant will pay
9 the special assessment in the amount of \$100, which is due
10 immediately.

11 Now, Mr. Egbowawa, you do have the right to
12 appeal. But that right to appeal can be waived. I believe
13 your plea agreement includes an appeal waiver, which is
14 usually enforced by the Sixth Circuit. But if you would like
15 to file a notice of appeal, you need to do it within 14 days
16 of the entry of the judgment, or within 14 days of the
17 Government's appeal. If requested, the clerk will prepare
18 and file a notice of appeal on your behalf. If you cannot
19 afford the cost of an appeal or counsel, you can seek to
20 appeal in forma pauperis, which means you can apply to have
21 the court waive the filing fee and then seek the appointment
22 of counsel.

23 Mr. Smith, any mistakes or problems with the
24 sentence?

25 MR. SMITH: No, Your Honor. Thank you.

1 THE COURT: Mr. Stegall, any mistakes or problems
2 with the sentence?

3 MR. STEGALL: No, Your Honor.

4 THE COURT: All right. Anything else, Mr. Smith,
5 in this matter?

6 MR. SMITH: No, Your Honor. Thank you for
7 hearing us.

8 THE COURT: All right. Mr. Stegall, anything
9 else?

10 MR. STEGALL: No, not from the defense.

11 THE COURT: All right. Mr. Egbowawa, I hope this
12 sinks in.

13 MR. STEGALL: Are we setting a hearing date for
14 that restitution or --

15 CASE MANAGER: The Judge just said the
16 determination due by July the 17th. So if they have
17 something they want to submit and agree upon; if not, we can
18 set a hearing.

19 THE COURT: All right. Why don't we just -- if
20 y'all want to work it out before July 17th, fine. But if
21 there's a disagreement, we can come back around the 17th and
22 we can address the issue then. Okay?

23 MR. STEGALL: Very good.

24 THE COURT: And we'll just send a notice out if
25 need be. If y'all would -- just keep us posted, if you

1 would, around the first of July so that we know what we're
2 dealing with. Okay?

3 MR. SMITH: Yes, Your Honor.

4 THE COURT: All right. Y'all take care.

5 MR. SMITH: Thank you.

6 CASE MANAGER: All rise. This Honorable Court
7 now stands adjourned.

8 (Adjournment at 10:42 a.m.)
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C E R T I F I C A T E

I, CATHERINE J. PHILLIPS, Fellow of the Academy of Professional Reporters, Registered Merit Reporter, Certified Manager of Reporting Services, do hereby certify that the foregoing 38 pages are, to the best of my knowledge, skill, and abilities, a true and accurate transcript from my stenotype notes of the SENTENCING on the 17th day of April, 2024, in the matter of:

UNITED STATES OF AMERICA

vs.

EFE EGBOWAWA

Dated this 30th day of April, 2024.

S/ CATHERINE J. PHILLIPS, FAPR, RMR, CMRS
Official Court Reporter
United States District Court
Western District of Tennessee